

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **AAA Invest v Floyd Barnes**

Docket No. **259933**

L.C. No. **01-124401-CH**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The claim of appeal from the December 3, 2004 order denying appellants' motion to set aside a January 8, 2003 consent judgment is DISMISSED for lack of jurisdiction. First and foremost, an order denying a motion to set aside is a postjudgment order that is not appealable as a matter of right when the motion in question was filed more than 21 days after the entry of the challenged order. *Allied Electric Supply Co v Tenaglia*, 461 Mich 285, 288; 602 NW2d 572 (1999). Second and just as important, appellants are in essence challenging the January 2003 consent judgment. As a matter of course, a party cannot claim an appeal as of right from a consent judgment. *CAM Construction v Lake Edgewood Condo Ass'n*, 465 Mich 549, 556; 640 NW2d 256 (2002). The rationale behind this rule is the fact that the parties to such an order are not aggrieved since "the error in [the order], if there is any, is [the parties'] own, and not the error of the court." *Dora v Lesinski*, 351 Mich 579, 582; 88 NW2d 592 (1958), quoting *Chapin v Perrin*, 46 Mich 130, 131; 8 NW 721 (1881). If appellants still want to challenge the December 2004 order, they must file a delayed application for leave to appeal under MCR 7.205. See MCR 7.203(B)(1).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB - 3 2005

Date

Sandra Schultz Mengel
Chief Clerk